CWP No. 128 of 2007

10.1.2008 Present: Mr. Inderjit Singh, counsel for the petitioners-non applicants.

Mr. R.M.Bisht, DAG, for the applicants/respondent.

By means of this application the State-respondent has prayed that it may be permitted to change the alignment of the Bhekhalti-Majhar road from k.m. 5/280 to k.m. 5/875. The reason for filing this application is that when the writ petition was decided, we had passed an order giving various directions to the respondents. One of the directions was that the respondent shall adhere to the detailed project report prepared under the Pradhan Mantri Gramin Sadak Yojana (PMGSY). As far as the alignment of the road is concerned, the applicant submits that the road as per its original alignment between RD 5/280 and 5/875 was to go through the land owned by more than one person and one Shri Chet Ram is also a co-sharer. Though the other co-shares have consented to give their land free of cost to the State Government, Chet Ram has not given any affidavit in this regard. Under the PMGSY construction of the road is undertaken only when the villagers give their land free of cost. Since Chet Ram is not willing to give his land, the State has been compelled to re-align the road so as to take it from the Government land close by.

This application has been opposed on the ground that previously we had directed that no further deviation shall be permitted. It is also urged that the respondent-State is not constructing the road as per the norms. As far as the realignment of

the road is concerned, we are of the considered view that if one of the owners of the land does not give his consent, then the State has no other option, but to realign the road from the Government land. We, therefore, direct that if the petitioners can procure an affidavit of Chet Ram whereby he shall undertake not to claim any compensation from the State Government for the land, then the road shall be constructed as per the original DPR. This affidavit must be filed with respondent No. 3 alongwith a letter on or before 28th January, 2008. If Chet Ram gives his affidavit, the petitioners shall also file an application in this court on or before 28th February, 2008 with a copy of the affidavit.

If no such affidavit is filed, the State shall be free to realign the road, as proposed by it in the application.

As far as the complaint of the non-applicant with regard to the quality of the road is concerned, we make it clear that the modification of the earlier order is only to the limited extent indicated above and we have not whittled down any of the other conditions and directions laid down by us in our previous order.

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(Deepak Gupta), J.

January 10, 2008(K) (V. K. Ahuja), J.